

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>RYAN E. MILLER,</b>	:	
<b>Plaintiffs</b>	:	<b>CIVIL ACTION NO. 3:19-0101</b>
<b>v.</b>	:	<b>(JUDGE MANNION)</b>
<b>C.O. BORGER, et al.,</b>	:	
<b>Defendants</b>	:	

**ORDER**

In accordance with the court's memorandum issued this same day,

**IT IS HEREBY ORDERED THAT:**

1. The motion to dismiss, filed on behalf of Defendant Kelly Butler (Doc. [21](#)) is **GRANTED**.
2. The Clerk of Court is **DIRECTED** to dismiss and terminate Defendant Kelly Butler as a named Defendant in the above captioned action.
3. Corrections Defendants' motion to dismiss and for summary judgment (Doc. [23](#)) is **GRANTED** in part and **DENIED** in part.
  - a. Corrections Defendants' motion for summary judgment based on Plaintiff's failure to exhaust any claim as to Defendants C/O Rodriguez, C/O Klinger, C/O Fritzinger, C/O Rauenzahn, Lt. Escalante, Warden Berdanier and Deputy Warden Wapinsky is **GRANTED**. Entry of judgment against these Defendants is **DEFERRED** pending further Order of Court.

b. Corrections Defendants' motion for summary judgment based on Plaintiff's Eighth Amendment medical indifference claim is **GRANTED**.

c. Corrections Defendants' motion for summary judgment based on Plaintiff's failure to exhaust his excessive force claim as to Defendants C/O Rainis, C/O Borger, C/O Sabol is **DENIED**.

4. Plaintiff's excessive force claim shall proceed as to Defendants C/O Rainis, C/O Borger, C/O Sabol.
5. Remaining Defendants, C/O Rainis, C/O Borger, C/O Sabol are **DIRECTED** to file an answer or other dispositive motion within twenty-one (21) days of the date of this Order

*s/ Malachy E. Mannion*  
**MALACHY E. MANNION**  
**United States District Judge**

**DATE: September 30, 2021**

19-0101-01-ORDER